

Syllabus—Federal Income Taxation – Fall 2020

(subject to change)

Fall 2020
Tues & Thur 4:30-5:45
Online (Synchronous Zoom unless
indicated otherwise)
Law 525-3

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The Joy of Tax!!!

“You must pay taxes. But there’s no law that says you gotta leave a tip.”
(Morgan Stanley Brokerage advertisement)

“The hardest thing in the world to understand is the Income Tax.”
(Albert Einstein)

The opera reminds me of my tax audit. It was in a language I didn’t understand. And it ended in tragedy.” (“Jeff MacNelly’s Shoe”)

“I have something my doctor calls ‘narcotaxes.’ Within 20 minutes of hearing someone launch into an explanation of tax laws, my eyes become glassy, my body loses all feeling, and I go into a shallow coma.” (Russell Baker)

“Virtually all persons or objects in this country . . . may have tax problems. Every day the economy generates thousands of sales, loans, gifts, purchases, leases, wills, and the like, which suggests the possibility of tax problems for somebody. Our economy is tax relevant in almost every detail.”
(Potter Stewart)

Materials:

- Item #1: Joel S. Newman, Dorothy A. Brown & Bridget J. Crawford, Federal Income Taxation: Cases, Problems, and Materials (7th ed. 2019) (the “NBC Casebook”)
- Item #2: Steven A. Bank & Kirk J. Stark, Selected Sections: Federal Income Tax Code and Regulations, 2019-2020 Edition (the “Statutory Supplement”) (note: you can use the 2020-2021 edition or any recent edition)
- Item #3: Corpak #1 – This will provide additional reading material for the first four classes (approximately) (to be provided on TWEN before the first class)
- Item #4: Additional Corpaks – These will follow Corpak #1 and will provide additional reading material for the classes (to be provided on TWEN)
- Item #5: Extra Material Document: This will contain miscellaneous items for the course and will be posted on the TWEN page.
- Item #6: There may be additional materials posted on TWEN from time to time.

Course Description: This course is a survey of the federal income taxation of individuals. Topics will include the definition of gross income, exclusions from gross income, the requirements for

various tax deductions, timing issues, and capital gains and losses. The course will highlight income tax problems frequently faced by attorneys in general practice, such as the tax aspects of settlements and damage awards, the deductibility of attorney fees, and the tax consequences of sales and exchanges.

Grades & Final Exam Information: There will be one exam at the end of the semester during the regularly scheduled exam period. At the time this Syllabus was prepared, the day and time of the exam for this particular class had not been posted yet. The exam likely will be a mix of multiple choice and essay questions; there may also be short answer essay questions. It is anticipated that the grades for the course will be determined by performance on the final examination.

Attendance Policy: You are allowed to miss six (6) classes.

Writing Assignment: We will have a writing assignment to comply with the writing-across-the-curriculum requirement and the requirement to have a bar exam-type assessment. Satisfactory completion of the assignment is required to be eligible to take the exam and complete the course.

Recording of Classes: Students may audio record classes unless the professor announces that this policy has changed. The professor may audio record classes, and the professor may video record using standard Law School's technology. Classes may also be recorded for ADA compliance purposes.

Student Learning Objectives: At the end of this course, students will be able to:

- Analyze a federal income tax return and describe aspects of the individual's economic activity for the year and make predictions about the individual's total economic wealth.
- Argue about whether the structure of the federal income tax system is appropriately progressive or not, or whether certain provisions of the tax law treats taxpayers fairly.
- Estimate the amount that a plaintiff needs to recover in a settlement (or in a damage recovery) to receive a target amount after-tax.
- Estimate the amount that a defendant can pay in a settlement (or in a damage recovery) based on the after-tax cost the defendant plans to incur to conclude the lawsuit.
- Analyze a method for a client to save capital gains taxes on a sale of certain types of property.
- Identify tax issues involved when a client receives amounts; make effective arguments about whether those amounts are taxable income; and if taxable, what year those amount will be taxed.
- Analyze whether an employee who receives employer-provided housing, discounts on merchandise, meals, and other fringe benefits, will be taxed on those benefits.
- Identify tax issues involved when a client pays certain amounts; make effective arguments about whether those amounts are tax deductible; and if tax deductible, in what year the amount may be deducted.

Emergency Procedures: We ask that you become familiar with Emergency Preparedness@SIU. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness@SIU website, and through text and email alerts. To register for alerts, visit: <http://emergency.siu.edu/>.

Disability Policy: SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval please contact DSS immediately at 618-453-5738 or disabilityservices.siu.edu. You may request accommodations at any time, but timely requests help to insure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objects in consultation with faculty. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreements for each course to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations. Accommodation request and renewal forms can be found here: <https://law.siu.edu/academics/>.

Saluki Cares: The purpose of Saluki Cares is to develop, facilitate, and coordinate a university-wide program of care and support for students in any type of distress – physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For information on Saluki Cares: (618) 453-2461 or siucares@siu.edu, <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

COVID-19: As a condition of on-campus enrollment, all SIUC students are required to engage in safe behaviors to avoid the spread of COVID-19, including the requirement that all students wear a mask in campus buildings, including classrooms, laboratories, and studios when others are present, regardless of social distancing. Students are expected to follow physical or social distancing guidelines by keeping at least 6 feet from others, and practicing good hand hygiene. Failure to comply with this policy may result in dismissal from the current class session. If the student refuses to leave the classroom after being dismissed, the student may be referred to the Office of Student Rights and Responsibilities. SIUC will follow federal, state and county public health recommendations and mandates in all decisions relating to university operation. Students should regularly review the link for the SIUC COVID-19 response.

Workload Expectation: The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), a “credit hour” is an amount of work that reasonably approximates: not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time. This is a 3-credit hour class, meaning that we will spend two 75-minute blocks of time together each week (on Tuesday and Thursday). The amount of assigned reading and out of class preparation should take you about 6 hours for the week. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending a total of 9 hours per week (3 in class and 6 preparing for class) on course-related work.

Preliminary Projected Reading Schedule (Subject to Change):

1st Class (Tuesday, Aug. 18, 2020) – Intro/Income:

- Newman, Brown & Crawford (“NBC”) Casebook pages 1 to 13 top
- Corpak #1 pages 7-8 middle (*Eisner v. Macomber*, 252 U.S. 189 (1920))
- NBC Casebook pages 34-36 middle (*Commissioner v. Glenshaw Glass* and related Notes)
- Note: We may begin our discussion of Presidential Tax Returns near the end of the first class, and then continue it during the second class. The Presidential Tax Return material is posted on the TWEN page under “Course Materials” (the first page of the document is dated “August 19, 2019”). As stated on the first page of that material, “There is no requirement to read this material, and it will not be tested directly on the exam.”

2nd Class (Thursday, Aug. 20, 2020) – Intro/Income:

- We likely begin (or continue) the discussion of Presidential Tax Returns—again, there is no requirement to read any material in advance on this topic.
- NBC Casebook pages 13-27
- Corpak #1 pages 8 middle to 15, including *Cesarini v. U.S.*, 296 F. Supp. 3 (D. Ohio 1969), “One Way to Avoid Tax on Found Items,” “And the Losers Are . . . All the Oscar Nominees!”

3rd Class (Tuesday, Aug. 25, 2020) – Intro/Income

- Skip NBC Casebook pages 29-30
- NBC Casebook 31-34 top
- SKIP NBC Casebook pages 36 to 38 (regarding imputed income)
- NBC Casebook pages 39 to 41 middle
- Corpak #1 pages 16 to 21 (*Gamble* case and *First Northwest Industries* case) (note that we will be studying the shorter version of *First Northwest Industries* in the Corpak rather than the longer version in the Casebook)

4th Class (Thursday, Aug. 27, 2020) – Defining Gross Income;

- NBC Casebook pages 45 middle to 49 (including *Old Colony Trust* and *Kirby Lumber*)
- Skip NBC Casebook 50-58 bottom (skip the *Zarin* case and notes thereafter)
- N&B Casebook 58 bottom to 66 (including *Collins* case)
- Corpak #1 pages 22 to 24 (including details of the *Gilbert* case discussed in the *Collins* case)

5th Class (Tuesday, Sept. 1, 2020): Defining Gross Income; Income Exclusions

- Corpak #2 pages 1 to 2 middle on the “Rules of Debt”
- SKIP NBC Casebook pages 66 bottom to 81
- NBC Casebook pages 83-93 top (including *Duberstein* and *Peebles* cases)

6th Class (Thursday, Sept. 3, 2020): Income Exclusions

- NBC Casebook pages 94-97 top (Employee Gifts, and Problems #1 to #9)
- SKIM N&B Casebook pages 97 to 99 middle (tipping)

- NBC Casebook pages 99 middle to 109 middle (including Life Insurance; problem 1 to 3 & 5 on page 100-101; Basis of Property Acquired by Gift; *Taft v. Bowers*, *Faird Es-Sultaneh*; Problems #1 to #4 on page 104)
- Corpak #2 pages 3-6 (Tax-Free Bequests; Basis of Property Acquired by Gift)

7th Class (Tuesday, Sept. 8, 2020); Income Exclusions; Fringe Benefits

- Catch-Up
- NBC Casebook pages 109 middle–116 top (Basis of Property Acquired from a Decedent; *Turner* case)
- Skip NBC Casebook pages 116 top to 118 top (skip *Haverly* case)
- NBC Casebook pages 118 top to 125 (including Problems #1 through #7, and #10 through #14 on pages 124-125)

8th Class (Thursday, Sept. 10, 2020); Income Exclusions; Fringe Benefits

- NBC Casebook pages 125 middle to 132 (including *Junior Chamber of Commerce* case; scholarships and awards; problem #1 on page 132)
- Corpak #2 pages 7 to 11 middle (parsonage allowance; more on prizes and awards)

9th Class (Tuesday, Sept. 15, 2020); Damage Awards; Business Deductions

- NBC Casebook pages 133 middle to 143 top (including *Amos*; Problems #1 to 4 & #6)
- Corpak #2 pages 11 middle to 17 middle (including *Amos* background; *Robinson* case materials and PLR 200041022 (10/13/2000) (described as the IRS's "bruise rule" ruling))
- SKIP NBC Casebook 143 & 144 (Tax-Exempt Bonds)
- NBC Casebook 145-153 (including *Welch v. Helvering*)
- Corpak #2 pages 18 to 19 middle (introduction to deductions)

10th Class (Thursday, Sept. 17, 2020); Business Deductions

- NBC Casebook 154 to 160 (including *Amend* and *Trebilcock* cases)
- NBC Casebook 160 middle to 169 (Jenkins case)
- Corpak #2 pages 19 middle to 21 (illegal payments)

11th Class (Tuesday, September 22, 2020): Business Deductions cont; For-Profit Transactions

- Corpak #2 pages 22 middle to 28 (*Heineman* case; material on describing a trade or business) [Note: After the 2017 Tax Act, a sole proprietor could deduct the type of expenses in *Heineman*, but an employee could not deduct those types of expenses because of the restriction on miscellaneous itemized deductions.]
- NBC Casebook 170-176 middle (expenses for the production of income—*Higgins* case; *Gilmore* case)
- SKIP NBC Casebook 176 middle-180 middle (Notes on the *Gilmores*)

12th Class (Thursday, Sept. 24, 2020); Business Deductions

- NBC Casebook 184 bottom to 190 (*Cavanaugh* case)
- NBC Casebook 180 middle to 184 middle (including *Kopp's* case)
- NBC Casebook 191 & 192 top (Problem involving *Sam Gilliam* case) (questions #1 through #4)
- Corpak #2 page 29 (legal analysis on *Gilliam* case)
- NBC Casebook 193-202 bottom (*California Helpers* and *Olive*)

13th Class (Tuesday, Sept. 29, 2020); Business Deductions; Medical Expenses

- NBC Casebook 202 bottom to 209 top (including *Exacto Springs*)
- NBC Casebook 209-210 (*International Freighting* case)
- NBC Casebook 502 bottom to 512 middle (including *Ferris* case and *Bilder* case)
- Corpak #3 pages 1 to 7 middle (*W.B. Counts* case; background on nursing home care)
- Skip NBC Casebook 512 middle to 515

14th Class (Thursday, Oct. 1, 2020); Medical Expenses; Casualty Losses

- Corpak #3 pages 7 middle to 12 (miscellaneous medical cases including *John Thoen*, *Schoen*, *Tao* cases; List of Some Other Deductible Medical Expenses)
- NBC Casebook pages 516-518 (IRS PLR 9409006; Other Medical Expenses)
- NBC Casebook 486 middle to 502 (including *Chamales*, *Corbaley*, *Helvering v. Owens*, and *Schonhoff*) [Note: After the 2017 Tax Act, from 2018 through 2025, casualty losses are only deductible under the rules discussed in these materials (i) if attributed to a federally-declared disaster, or (ii) to the extent of casualty gains during the year. IRC § 165(h)(5)(B)]
- Corpak #3 pages 13 to 15 (more on casualty losses, including Rev. Rul. 63-232, the *Termite* Ruling)

15th Class (Tuesday, Oct. 6, 2020); Business Deductions; Capital Expenses

- Catch-Up
- NBC Casebook 213-216 top (*Fall River Gas*)
- Corpak #3 pages 16 to 23 middle (including *Cinergy Corp* case and brief summary of *Norwest Corp* case)
- SKIP NBC Casebook pages 216 – 232 bottom

16th Class (Thursday, Oct. 8, 2020); Business Deductions; Depreciation; Inventories

- NBC Casebook 232 bottom – 234 bottom
- Note: I will lecture on *Fribourg Navigation* at page 234 bottom – 236, but there is no need to read it in advance
- Corpak #3 pages 23 middle to 35 middle (including *Simon* case; Depreciation Notes from IRS Publication 946, Election Under IRC § 179; Organization Expenses Under IRC §§ 248 & 709)
- Skip NBC Casebook pages 237 to 241 top

- Corpak #3 pages 32 middle to 33 (note: We will study the “Summary of Key Points from *Harrah’s Club v. United States*” in the Corpak rather than the lengthier reprint in the Casebook)
- NBC Casebook pages 241 top to 244 (notes after *Hannah’s Club*)
- NBC Casebook 244 bottom-250 bottom (*Frontier Chevrolet*; Annuities)

17th Class (Tuesday, Oct. 13, 2020); Inventory; Timing

- NBC Casebook 250 bottom to 265 bottom (Inventories; *Thor Power* case; *Paccar* case; but SKIM NBC Casebook 251 middle to 253 regarding LIFO & FIFO)
- Corpak #3 pages 34 to 35 bottom (regarding Thor)
- SKIP NBC Casebook 266-269
- NBC Casebook 271-281 (*Hornung, Ames*)
- Corpak #3 pages 35 bottom to 39 (timing matters including the *Baxter* case)
- HAND-OUT WAC/BAR-ASSESSMENT ASSIGNMENT?

18th Class (Thursday, Oct. 15, 2020); Timing

- NBC Casebook 282 to 293 (including *North American Oil, U.S. v. Lewis, McKinney, Alice Phelan Sullivan*)

19th Class (Tuesday, Oct. 20, 2020): Accrual Method of Accounting

- Corpak #4, pages 1 to 23 (*Tampa Bay Devil Rays* case; Rev. Proc. 2004-34; *Chrysler* case; *Ford Motor* case; Statute/Regulation Response to *Ford Motor* case)

20th Class (Thursday, Oct. 22, 2020); Capital Gains

- NBC Casebook 295-307 top (including *Gray v. Darlington, Rice*)
- Corpak #4 pages 24 to 30 top (rates, John Kerry example, *Bryam*; capital losses)
- SKIP NBC Casebook 308-315
- NBC Casebook 316 to 318 bottom (*Hort* case)

21st Class (Tuesday, Oct. 27, 2020); Capital Gains cont.

- NBC Casebook 318 bottom-328 top (*Lattera* case & *Long* case)
- SKIP NBC Casebook pages 328 bottom to 333 top
- NBC Casebook 333 top to 336 top (*Williams v. McGowen*)
- Corpak #4 pages 30 top to 37 (*Sale of Patent-Gilson* case)

22nd Class (Thursday, Oct. 29, 2020); Structural Concerns; Charity

- NBC Casebook 449-459 middle (structural concerns, including earned income credit and standard deduction; no cases)
- Corpak #5 page 1 (structural considerations)
- NBC Casebook 459 middle to 471 middle (intro to Charity; *Hernandez* case)
- Corpak #5 pages 2 to 4 (*Sklar* case)

23rd Class (Election Day-Will Need a Make-Up Class) Tuesday, Nov. 3, 2020); Charity

- SKIP NBC Casebook 471 middle to 474 middle
- N&B Casebook 474 middle-485 bottom (percentage limitations; Problems #1 through #5 on page 477; unrelated business income; valuation)
- Corpak #5 pages 5 to 14 (More on Charitable Giving, including public recognition; two types of 501(c)(3) organizations; *Lary v. U.S.* – the blood donation case; UBIT; valuation)

24th Class (Thursday, Nov. 5, 2020); Charities

- Corpak #5 pages 15 to 35 middle (*Lions Associated Drag Strip*, Rev. Rul. 64-275, Rev. Rule 70-4, *St. Louis Science Fiction Limited*, *Minnesota Kingsmen Chess Assn.*; IRS GCM 36993 (Hermione's Team Goes for 501(c)(3) Status!!!))
- Corpak #5 pages 35 middle to 43 middle (more on charities and charitable giving)

25th Class (Tuesday, Nov. 10, 2020); Miscellaneous Sales & Exchange Materials

- NBC Casebook 519-520 (Deferred Payment Sales)
- NBC Casebook 559-560 top (Exclusion of Gain from Sale of a Principal Residence)
- NBC Casebook 537-539 (Into to Non-Recognition Transactions)
- NBC Casebook 546 bottom to 558 middle (Involuntary Conversions (including *Santucci*, PLR 8127089, *Johnson*, *Willamette Industries*))
- Corpak #5 pages 43 middle to 44 (Revenue Ruling 76-319) (bowling alley ruling)
- SKIM NBC Casebook 540-546 middle (Like-Kind Exchanges)

26th Class (Thursday, Nov. 12, 2020) Education Expenses & Home Office Deduction

- NBC Casebook pages 337 & 338
- NBC Casebook pages 359 middle to 365 (Deductions for Education, *Coughlin* case)
- Corpak #5 pages 45 to 49 (Education; *John Watson* case; extra materials)
- NBC Casebook pages 366 to 377 (Business Use of Home, including *Soliman* case)
- Time Permitting: Corpak #5 pages 50-51 (Bonus Material on 2017 Tax Act)

27th Class (Tuesday, Nov. 17, 2020) To Be Determined

28th Class (Thursday, Nov. 19, 2020) To Be Determined

Thanksgiving Vacation: Nov. 21 to Nov. 29

Exam—Date & Time not yet posted [Final Exam Period is 12/1 to 12/5 and 12/7 to 12/11]